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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.85 of 2007

Date of decision:9.1.2007

M/S Agni Castings Ltd. **...Petitioner**

Versus

Punjab Financial Corporation and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present:Mr.P.K.Gupta, Advocate for the petitioner.

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JUDGMENT

RAJESH BINDAL,J.

Petitioner has approached this Court by filing the present petition seeking quashing of the notice/advertisement Annexure P-7 vide which the Punjab Financial Corporation (for short "the Corporation") has invited sealed offers for sale of the unit of the petitioner for recovery of the unpaid loan amount by the petitioner.

As pleaded in the petition, petitioner set up its unit after availing loan of Rs. 72.83 lacs from the Corporation from 1991 to 1994. As per the petitioner, it repaid a sum of Rs. 92,83,645/- upto to the year 2001. Due to huge losses suffered by the petitioner, electricity connection of the petitioner was disconnected by the Punjab State Electricity Board in the year 1999 regarding which litigation is pending. Petitioner also defaulted for payment of central excise duty for more than a crore of rupees. Petitioner even tried to get the unit revived by approaching the Board for Industrial and Financial Reconstruction (for short "the BIFR") but the

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application filed by the petitioner was rejected vide order dated May 4,2006. The challenge to the notice for sale of the unit is on the ground that the valuation of the unit is about Rs. Five Crores whereas respondents have shown reserve price as Rs. 119.52 lacs and further that though unit is situated in District Fatehgarh Sahib but the public notice mentions District Patiala. The amount due against the petitioner has not been finally settled as against the amount claimed by the respondents to the tune of Rs. 99.88 lacs, petitioner admits that sum of Rs. 47 lacs only is due.

We have heard learned counsel for the petitioner and with his assistance have gone through the documents on record.

On appreciation of the facts of the case, we find that present petition is nothing else but a last minute effort of the petitioner to stall the process of recovery of amount due against it by sale of property mortgaged with the Corporation. Petitioner having failed to repay the loan raised by it from the Corporation adopted every possible mean to delay the process of recovery. Firstly, petitioner approached the BIFR knowing fully well that it was not eligible for rehabilitation under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985. The application filed by the petitioner was bound to be rejected as on the date of application the unit was lying closed and further it was not employing 50 or more persons. After the rejection of the application by BIFR on May 4,2006, petitioner was issued a notice by the Corporation on May 24,2006 for payment of amount due to which the petitioner replied praying for a period of three years to enable it to pay the amount in installments starting from January, 2007. The Corporation having not considered the prayer of the petitioner to be reasonable proceeded further with the sale of the unit. The contention of the petitioner that in the advertisement issued by the Corporation, property is shown to be situated in District Patiala has to be noticed and rejected though it is so mentioned in the advertisement but that does not make any difference when the name of the unit and its situation in village Ajnali link Road was specifically provided for in the advertisement. Merely because at one place District Patiala is mentioned will not make any

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difference as the unit can very well be located by the address given in the advertisement. As far as the contention of the petitioner to the effect that the value of the unit is about Rs. five crores, the petitioner is always at liberty to bring buyer of this value before the Corporation, so that the value as is assessed by the petitioner can be received. Seeing the conduct of the petitioner in delaying the recovery of the amount in spite of the unit having been closed since 1999 and there being dues of excise department & Punjab State Electricity Board, running into crores of rupees, pending against the petitioner, we do not find any merit in the petition, accordingly dismiss the same in limine.

(M.M.Kumar)
Judge

January 09 ,2007 **(Rajesh Bindal)**
Pka **Judge**